

Docket No. F-7857

Ser. No. 10/600,196

**REMARKS**

The above amendments and following remarks are responsive to the final Office Action of October February 9, 2005. Entry of the Amendments and consideration of the remarks are respectfully requested and a notice of allowance is earnestly solicited.

The Examiner has and rejected claims 1 and 6-8 under 35 U.S.C. § 102(b) as being anticipated by Schweitzer (U.S. Patent No. 4,029,936). Claim 2 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Schweitzer as modified by Kobayashi et al (U.S. Patent No. 4,624,631) where Kobayashi is cited for teaching press molding. Claims 3 and 4 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Schweitzer as modified by Lee (U.S. Patent No. 4,048,290) where Lee is cited for teaching butt welding. Claim 5 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Schweitzer as modified by Hornby (U.S. Patent No. 6,769,176) where Hornby is cited for teaching laser welding. Claims 1-8 have been rejected under 35 U.S.C. § 101 for being drafted broadly enough to cover the limitations recited claims 1-16 of co-pending U.S. Patent Application No. 10/911,167.

Responsive to the rejections, Applicant has further amended Claim 1 to distinguish the present invention over the prior art and U.S. Patent Application

Docket No. F-7857

Ser. No. 10/600,196

No. 10/911,167. Support for this amendment is disclosed in the specification, beginning at page 9, third paragraph, and illustrated in Figures 3-5. Regarding the rejection under section 102(b), Applicant traverses the Examiner's assertions as follows.

In comparing the Examiner's assertion to the limitations of Claim 1 to Schweitzer, the Examiner asserts that Schweitzer teaches a burner port 86. This number references a flame (Figure 10) and not a port. However, Schweitzer discloses a port 79 that produces the flame 86 where the port is a part of a conventional gas burner (see column 8, line 51 of Schweitzer). The flame is projected through the ports 79 onto a shield 63. The ports 79, however, are cut-outs and not depressions as recited in Claim 1.

The Examiner further asserts that Schweitzer teaches at column 5 though column 6, line 3, first and second planar metal sheets having dissimilar materials. The Examiner asserts that "the disclosed ceramic material anticipates a first material...while the disclosed steel anticipates a second material." Regarding the steel, the Examiner refers to the terminal tabs 6a and 6b illustrated in Figures 3 and 4 and disclosed in column 5, line 56. As to the ceramic, the Examiner refers to the ceramic insulating cement that is flowed onto the tabs for increasing the connection of the tabs to a holder 2.

Docket No. F-7857

Ser. No. 10/600,196

As to these assertions by the Examiner, it is inconsistent that the Examiner asserts that a ceramic is a metal. Furthermore, Schweitzer teaches that the ceramic is flowed onto the steel (i.e., overlapping of the material), while Claim 1 recites that the first and second materials are separated by a linear boundary (i.e., no overlapping of the material). Furthermore while the ports of Schweitzer are not part of either the tabs or the ceramic, Claim 1 recites that the ports are depressions in the first material.

The Examiner further asserts that Schweitzer teaches at column 6, lines 52-64, connecting the first and second sheets for forming the gas passages and the burner ports. What this text references, however, as illustrated in figures 3 and 4, is an electrical sub assembly consisting of terminal tabs 6a and 6b connected to igniter terminal tabs 4a and 4b. Neither of these items, however, contains burner ports or a gas passage such as the first and second sheets recited in Claim 1.

The Examiner also asserts that Schweitzer teaches "first and second planar sheet centerline joint or separate", where the Examiner fails to mention a location in Schweitzer for this teaching. Applicant interprets this statement to mean that Schweitzer teaches first and second sheets that are separate or joined by a centerline as recited in claims 7 and 8. As indicated, however, the first and second sheets taught in Schweitzer at column 6, lines 52-64 fail to have

Docket No. F-7857

Ser. No. 10/600,196

burner ports or a gas passage such as the first and second sheets recited in Claim 1.

The Examiner further asserts that Schweitzer inherently teaches the first and second materials where the first material is ceramic and the second material is steel. However, as indicated, Claim 1 recites that both materials are metal.

In sum, Schweitzer fails to teach each limitation recited in the claims so that Schweitzer fails to anticipate the claims and the rejection is improper. *In re Royka*, 490 F.2d 981 (CCPA 1974) (a prima face case of obviousness is established only where the combination of cited references teaches or suggests each limitation in the claim). The remainder of the claims depend from Claim 1 so that the rejections against the same are therefore obviated. *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.*, 234 F.3d 558 (Fed. Cir. 2000) (a claim that depends from a prior claim incorporates all the limitations of that claim).


If there is any fee(s) due, the USPTO is hereby authorized to charge any fee(s) or fee(s) deficiency or credit any excess payment to Deposit Account No. 10-1250.

Docket No. F-7857


Ser. No. 10/600,196

In light of the foregoing, the application is now believed to be in proper form for allowance of all claims and notice to that effect is earnestly solicited.

Respectfully submitted,  
JORDAN AND HAMBURG LLP

By   
C. Bruce Hamburg  
Reg. No. 22,389  
Attorney for Applicants

and,

By   
T. David Bomzer  
Reg. No. 48,770  
Attorney for Applicants

Jordan and Hamburg LLP  
122 East 42nd Street  
New York, New York 10168  
(212) 986-2340